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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
ARIZONA-AMERICAN WATER COMPANY,
INC., AN ARIZONA CORPORATION, FOR A
DETERMINATION OF THE CURRENT FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY AND FOR INCREASES IN ITS
RATES AND CHARGES BASED THEREON
FOR UTILITY SERVICE BY ITS PARADISE
VALLEY WATER DISTRICT.

Docket No. W-01303A-05-0405

W-01303A-05-0910

NOTICE OF FILING

The Residential Utility Consumer Office ("RUCO") hereby provides notice of filing
the Direct Settlement Testimony of William A. Rigsby, in the above-referenced matter.

RESPECTFULLY SUBMITTED this 24th day of April 2008

Arizona Corporation Commission
DOCKETED

APR 24 2008

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hr

Daniel W. Pozefsky
Attorney

1 AN ORIGINAL AND THIRTEEN COPIES
2 of the foregoing filed this 24th day
3 of April 2008 with:

4 Docket Control
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007

8 COPIES of the foregoing hand delivered/
9 mailed this 24th day of April 2008 to:

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By 
Ernestine Gamble

**ARIZONA AMERICAN WATER COMPANY, INC
(PARADISE VALLEY WATER DISTRICT)**

DOCKET NO. W-01303A-05-0405

**DIRECT TESTIMONY
OF
WILLIAM A. RIGSBY, CRRA**

**ON BEHALF OF
THE
RESIDENTIAL UTILITY CONSUMER OFFICE**

APRIL 24, 2008

1

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INTRODUCTION

Q. Please state your name, occupation, and business address.

A. My Name is William A. Rigsby. I am a Public Utilities Analyst V employed by the Residential Utility Consumer Office ("RUCO") located at 1110 W. Washington, Suite 220, Phoenix, Arizona 85007.

Q. Please describe your qualifications in the field of utility regulation and your educational background.

A. I have been involved with utility regulation in Arizona since 1994. During that period of time I have worked as a utilities rate analyst for both the Arizona Corporation Commission ("ACC" or "Commission") and for RUCO. I hold a Bachelor of Science degree in the field of finance from Arizona State University and a Master of Business Administration degree, with an emphasis in accounting, from the University of Phoenix. I have also been awarded the professional designation, Certified Rate of Return Analyst ("CRRRA") by the Society of Utility and Regulatory Financial Analysts ("SURFA"). The CRRRA designation is awarded based upon experience and the successful completion of a written examination. Appendix I, which is attached to this testimony, further describes my educational background and also includes a list of the rate cases and regulatory matters that I have been involved with.

...

1 Q. What is the purpose of your testimony?

2 A. The purpose of my testimony is to present RUCO's position on a rate
3 design agreement ("Rate Design Agreement") that was filed with the ACC
4 on January 15, 2008. The Rate Design Agreement was reached by
5 Arizona-American Water Company, Inc. ("Arizona-American" or
6 "Company"), and signed by the Town of Paradise Valley, Sanctuary on
7 Camelback Mountain, Camelback Inn, Scottsdale Renaissance,
8 Camelhead Estates II Home Owners Association, Clearwater Hills
9 Improvement Association and Finisterre Home Owners Association
10 (hereinafter referred to as the "Parties"). Neither Arizona-American nor
11 RUCO are signatories to the Rate Design Agreement. The purpose of the
12 Rate Design Agreement is represented by the Parties as a mitigation of
13 the effects of rate shock that has been experienced by a number of
14 Arizona-American's Paradise Valley District's residential and resort
15 customers since the implementation of the rate design that was ordered in
16 Decision No. 68858, dated November 14, 2005.

17
18 Q. Does RUCO support of the Rate Design Agreement?

19 A. No. For the reasons that will be explained in my testimony, RUCO is
20 opposed to the Rate Design Agreement that is now before the
21 Commission.

22

23 ...

1 Q. Have you filed any prior testimony in this docket on behalf of RUCO?

2 A. Yes. I filed both direct and surebuttal testimony on behalf of RUCO during
3 the Arizona-American Paradise Valley District rate case proceeding which
4 resulted in Decision No. 68858. I have also been present for discussions
5 that have taken place between RUCO and Paradise Valley District
6 residential customers and the representatives for the aforementioned
7 resorts who are dissatisfied with the rate design that is presently in effect.

8
9 Q. How is your testimony organized?

10 A. My testimony is organized into four sections. First, the introduction that I
11 have just presented and second, a brief background on the events that led
12 up to the filing of the Rate Design Agreement that is now before the
13 Commission. Third, I will provide a discussion of the Rate Design
14 Agreement and why RUCO opposes it. Finally I will present RUCO's final
15 recommendation on the Rate Design Agreement and how RUCO believes
16 the current rate design issues should be resolved.

17

18 **BACKGROUND**

19 Q. Please provide a brief summary of the events that occurred prior to the
20 filing of the Agreement that is now before the Commission.

21 A. On July 3, 2005, Arizona-American, a wholly owned subsidiary of RWE
22 AG, filed an application with the ACC requesting approval of a
23 determination of the current fair value of the Company's utility plant and for

1 increases in rates and charges for customers receiving water service from
2 Arizona-American's Paradise Valley Water District. During the test year
3 ended December 31, 2004, Arizona-American provided water service to
4 an average of 4,717 Paradise Valley customers of which approximately
5 4,411, or 93.5 percent, were residential customers.

6 In addition to an increase in revenues, Arizona-American also sought
7 approval for surcharges on both an arsenic cost recovery mechanism
8 ("ACRM") and a public safety surcharge ("PSS") mechanism. The ACRM
9 surcharge would allow the Company to recover costs associated with
10 meeting the U.S. Environmental Protection Agency's revised arsenic
11 standard of 10 parts per billion. The PSS would allow Arizona-American
12 to recover all capital related costs for \$16 million in post-test year fire flow
13 improvements that were scheduled to be completed before the Company's
14 next scheduled general rate case in 2010. Arizona-American also sought
15 a high usage surcharge ("HUS") for the purpose of promoting conservation
16 in the Paradise Valley District.

17 RUCO was granted intervenor status in the proceeding and filed written
18 testimony prior to the evidentiary hearing on the Company's rate increase
19 request.

20 The evidentiary hearing on the matter was conducted from March 27 2006
21 through April 3, 2006. On Tuesday, July 25, 2006, the Commission
22 adopted, by a vote of 4 to 1, Decision No. 68858. The Decision ordered
23 the implementation of the aforementioned ACRM surcharge (at a future

1 date after the filing of required documents and schedules by the
2 Company) and an ACC Staff modified version of Arizona-American's
3 proposed rate design that included the PSS and HUS.

4 Shortly after the passage of Decision No. 68858, both the ACC and RUCO
5 began receiving complaints from Paradise Valley District Customers who
6 were experiencing rate shock as a result of the HUS which was used to
7 fund fire flow improvements (the PSS did not go into effect until October
8 2007).

9 After a number of filings which requested the Commission to reconsider
10 Decision No. 68858¹, the Commission voted to reconsider the Decision for
11 the limited purpose of reviewing the Rate Design Agreement at a noticed
12 ACC Staff meeting held on February 27, 2008.

13
14 **DISCUSSION OF THE AGREEMENT**

15 Q. Have you read the Rate Design Agreement that was filed with the
16 Commission on January 15, 2008?

17 A. Yes, I have.

18
19 Q. Please discuss the Rate Design Agreement.

20 A. The Rate Design Agreement seeks the following:
21
22

¹ RUCO did not join in the request to reconsider the Decision.

1 1) A reduction of the existing HUS from \$2.15 to \$1.00 per 1,000
2 gallons of water sold effective March 1, 2008. The reduced HUS
3 would recover all un-recovered fire flow improvement costs incurred
4 up to the end of February 2008 and would continue to be booked
5 by the Company as CIAC.

6
7 2) On March 1, 2008 the existing \$1.00 per 1,000 gallons of water
8 sold PSS would be reset to \$0.00 and would subsequently be
9 replaced with an ACRM-like mechanism that would allow for regular
10 step increases to recover the costs associated with new fire flow
11 plant at the Commission approved 10.40 percent cost of equity.

12
13 3) The PSS would continue to apply only to the commodity portion of
14 the rate and the first step increase filing would likely occur in the
15 later part of 2008 after Phase 3 of the fire flow project is completed.
16 A charge of \$0.125 per 1,000 gallons of water is estimated for the
17 first step increase under the proposed ACRM-like mechanism.

18
19 4) For fire flow plant construction phases completed after March 1,
20 2008, the PSS would be designed to recover fifty percent of the
21 investment in the improvements. The revised HUS would cover the
22 remaining fifty percent at least until a final order is issued by the

1 ACC in Arizona-American's next rate case proceeding before the
2 Commission.

3
4 5) All other rate design features of the HUS and PSS and accounting
5 deferrals would remain in their present form until a final order is
6 issued by the ACC in Arizona-American's next rate case
7 proceeding.

8
9 6) During Arizona-American's next rate case proceeding, the
10 Company will request that the proceeds from the HUS be no longer
11 treated as CIAC, and instead be treated as an investment in plant
12 in service that would provide the Company with a return on
13 investment and be fully recoverable in rates.

14
15 7) The Rate Design Agreement provides a timetable for the
16 completion of Phases 3 through 7 of the fire flow improvements, but
17 has no cost estimates for Phases 5 through 7.

18
19 Q. What is RUCO's position on the Rate Design Agreement?

20 A. RUCO is opposed to the Rate Design Agreement. While RUCO
21 recognizes that the Commission has authorized the recovery of the costs
22 of fire flow improvements over RUCO's previously-expressed objections,
23 our opposition to the Rate Design Agreement is not an attempt to undercut

1 the ACC's decision to permit the recovery of fire flow costs. Rather our
2 objection, in part is to the use of an extraordinary devise (i.e. an adjustor
3 mechanism) to recover these costs. In addition, RUCO objects to the
4 Rate Design Agreement because it would shift the recovery of costs away
5 from high use customers – contrary to the conservation goals of the
6 current rate design.

7
8 Q. What aspects of the Rate Design Agreement is RUCO concerned with?

9 A. RUCO is concerned with several of the proposals in the Rate Design
10 Agreement. RUCO's principal objection concerns the ACRM-like
11 mechanism that is being proposed.

12
13 Q. Why is RUCO opposed to the use of an ACRM-like mechanism to recover
14 fire flow costs?

15 A. There are several reasons why RUCO is opposed to the ACRM-like
16 mechanism. Adjustor mechanisms are extraordinary rate recovery
17 devices that are permitted for certain narrow circumstances. The ACRM
18 is a type of adjustor mechanism that was specifically designed to address
19 a one-time event that impacted dozens of Arizona water companies
20 simultaneously. The Company's expenditures for fire flow are not the type
21 of expense for which an adjustor mechanism is generally permitted, nor
22 are they similar to the costs recovered through the ACRM.

1 The original ACRM was approved by the Commission to give water
2 providers in Arizona the ability to recover the costs associated with
3 meeting the U.S. Environmental Protection Agency's ("EPA") revised
4 drinking water arsenic standard of 10 parts per billion. The EPA's
5 requirement that water providers comply with the more stringent standard
6 was in effect an unfunded mandate from the federal government. Multiple
7 Arizona water providers had no choice but to either comply with the EPA's
8 rule or face the consequences of being in violation of it. This being the
9 case, representatives from the state's investor owned water companies,
10 ACC Staff, and RUCO developed the present ACRM which allows water
11 utilities to comply with the new EPA standard through a surcharge that
12 was established within the context of a rate case proceeding where a
13 constitutional finding of a utility's fair value has been established. The key
14 point here is that the EPA's revised arsenic standard represented an
15 extraordinary circumstance that neither Arizona's government, which
16 includes the Commission, or the state's water companies, either investor
17 owned or municipal, had any control over, and that would be impacting a
18 number of water utilities simultaneously.

19 Under the Rate Design Agreement, Arizona-American can seek step
20 increases to fund future construction phases that have no definite cost
21 estimates at this time. By approving the Rate Case Agreement with its
22 ACRM-like mechanism that allows for an unspecified number of step

1 increases, the Commission may well be handing a blank check to the
2 Company.

3
4 Q. Are there any similar mandates in regard to the fire flow improvements?

5 A. No. There is no federal, or for that matter any other, mandates requiring
6 that Arizona-American be required to construct the fire flow improvements
7 that Paradise Valley District ratepayers are now funding through the HUS
8 and PSS. Nor are there any other extraordinary circumstances that would
9 warrant the approval of an ACRM-like mechanism in this case. As I stated
10 earlier, the Company was and, to the best of my knowledge, still is in
11 compliance with the ACC's rules regarding fire protection. In this
12 proceeding, the Town of Paradise Valley desired fire flow improvements
13 which exceeded the ACC's requirements that the Company was in
14 compliance with. Because Arizona-American is in compliance with
15 existing Commission fire flow rules, the expenditures required for the fire
16 flow improvements are therefore discretionary in nature.

17

18 Q. Are there other ways in which the proposed ACRM-like mechanism is
19 different than the original ACRM?

20 A. Yes. The ACRMs that the Commission has approved have been for
21 projects that had definite cost estimates, but the Company has no definite
22 cost estimates for future phases of the fire flow project. Further, the
23 ACRMs that have been approved have all permitted only a fixed number

1 of step increases. The proposed ACRM-like mechanism would allow for
2 an unspecified number of step increases. By approving the proposed
3 mechanism, the Commission may well be handing the Company a blank
4 check for fire flow improvements.

5
6 Q. Does RUCO have any other concerns regarding the Rate Design
7 Agreement?

8 A. Yes, the proposed Rate Design Agreement will harm the residential class
9 of ratepayers by shifting the recovery of fire flow costs from high-end
10 users to low-end users. The PSS currently is collected in proportion to
11 commodity usage. Under the proposed Rate Design Agreement, the
12 costs for the fire flow improvements would be recovered from all of the
13 Company's customers as opposed to only high-end users. This would
14 discourage conservation which was one of the chief features of the
15 present rate design.

16 The new rate design would also spread the cost to many ratepayers who
17 are not affected under the current rate design. The use of an ACRM-like
18 mechanism is inappropriate and would shift costs from the resorts to
19 ratepayers who are currently unaffected by the current rate design.

20
21
22 ...

1 Q. Currently, the HUS proceeds are treated as contributions in aid-of-
2 construction ("CIAC"), but the Rate Design Agreement proposes that, in
3 the Company's next rate case, those proceeds would be treated as
4 investment that would earn a return. What is your reaction to that aspect
5 of the proposal?

6 A. It is appropriate to treat the proceeds of the HUS as CIAC, because they
7 are non-investor-supplied funds for the specific purpose of funding the fire
8 flow plant. Since these funds are not being provided by Arizona-
9 American's investors, it would be patently unfair for the Company to earn
10 a rate of return on them. The Commission should reject the Rate Design
11 Agreement's proposal to allow the Company to earn a return on HUS
12 proceeds after the next rate case.

13
14 Q. Please summarize your objections to the Rate Design Agreement.

15 A. For the reasons stated above, RUCO does not believe that Paradise
16 Valley Ratepayers will be any better off under the proposals contained in
17 the Rate Design Agreement. The advantages of the proposed surcharge
18 reductions may prove to be meaningless if the proposed ACRM-like
19 mechanism, that has a provision for no specified number of future step
20 increases, is approved. Furthermore the very fact that an ACRM-like
21 mechanism could be approved to fund a project that is clearly
22 discretionary in nature (due to the fact that Arizona-American is already in
23 compliance with the ACC' fire flow rules), harms different classes of

1 ratepayers, has no definite final cost estimates and is not required by any
2 federal or state mandates, makes the approval of the Rate Design
3 Agreement totally unacceptable in RUCO's view.
4

5 **RECOMMENDATIONS**

6 Q. What are RUCO's final recommendations?

7 A. For the reasons stated above, RUCO recommends that the Commission
8 reject the Rate Design Agreement. RUCO believes that Arizona-
9 American's upcoming rate case application, which is expected to be filed
10 sometime in either April or May 2008, is the better forum to make changes
11 to the Company's existing rate design for recovery of the fire flow costs.
12 The rate case will provide all of the concerned parties with the opportunity
13 to examine this issue with all of the other ratemaking elements that
14 determine what just and reasonable rates should be for the Company's
15 Paradise Valley District ratepayers.
16

17 Q. Does your silence on any of the issues, matters or findings addressed in
18 the testimony of any of the other witness who have testified in this docket
19 constitute your acceptance of their positions on such issues, matters or
20 findings?

21 A. No, it does not.
22

23 ...

1 Q. Does this conclude your testimony?

2 A. Yes, it does.

Qualifications of William A. Rigsby, CRRA

EDUCATION:

University of Phoenix
Master of Business Administration, Emphasis in Accounting, 1993

Arizona State University
College of Business
Bachelor of Science, Finance, 1990

Mesa Community College
Associate of Applied Science, Banking and Finance, 1986

Society of Utility and Regulatory Financial Analysts
38th Annual Financial Forum and CRRA Examination
Georgetown University Conference Center, Washington D.C.
Awarded the Certified Rate of Return Analyst designation
after successfully completing SURFA's CRRA examination.

Michigan State University
Institute of Public Utilities
N.A.R.U.C. Annual Regulatory Studies Program, 1997 & 1999

Florida State University
Center for Professional Development & Public Service
N.A.R.U.C. Annual Western Utility Rate School, 1996

EXPERIENCE:

Public Utilities Analyst V
Residential Utility Consumer Office
Phoenix, Arizona
April 2001 – Present

Senior Rate Analyst
Accounting & Rates - Financial Analysis Unit
Arizona Corporation Commission, Utilities Division
Phoenix, Arizona
July 1999 – April 2001

Senior Rate Analyst
Residential Utility Consumer Office
Phoenix, Arizona
December 1997 – July 1999

Utilities Auditor II and III
Accounting & Rates – Revenue Requirements Analysis Unit
Arizona Corporation Commission, Utilities Division
Phoenix, Arizona
October 1994 – November 1997

Tax Examiner Technician I / Revenue Auditor II
Arizona Department of Revenue
Transaction Privilege / Corporate Income Tax Audit Units
Phoenix, Arizona
July 1991 – October 1994

RESUME OF RATE CASE AND REGULATORY PARTICIPATION

<u>Utility Company</u>	<u>Docket No.</u>	<u>Type of Proceeding</u>
ICR Water Users Association	U-2824-94-389	Original CC&N
Rincon Water Company	U-1723-95-122	Rate Increase
Ash Fork Development Association, Inc.	E-1004-95-124	Rate Increase
Parker Lakeview Estates Homeowners Association, Inc.	U-1853-95-328	Rate Increase
Mirabell Water Company, Inc.	U-2368-95-449	Rate Increase
Bonita Creek Land and Homeowner's Association	U-2195-95-494	Rate Increase
Pineview Land & Water Company	U-1676-96-161	Rate Increase
Pineview Land & Water Company	U-1676-96-352	Financing
Montezuma Estates Property Owners Association	U-2064-96-465	Rate Increase
Houghland Water Company	U-2338-96-603 et al	Rate Increase
Sunrise Vistas Utilities Company – Water Division	U-2625-97-074	Rate Increase
Sunrise Vistas Utilities Company – Sewer Division	U-2625-97-075	Rate Increase
Holiday Enterprises, Inc. dba Holiday Water Company	U-1896-97-302	Rate Increase
Gardener Water Company	U-2373-97-499	Rate Increase
Cienega Water Company	W-2034-97-473	Rate Increase
Rincon Water Company	W-1723-97-414	Financing/Auth. To Issue Stock
Vail Water Company	W-01651A-97-0539 et al	Rate Increase
Bermuda Water Company, Inc.	W-01812A-98-0390	Rate Increase
Bella Vista Water Company	W-02465A-98-0458	Rate Increase
Pima Utility Company	SW-02199A-98-0578	Rate Increase

RESUME OF RATE CASE AND REGULATORY PARTICIPATION (Cont.)

<u>Utility Company</u>	<u>Docket No.</u>	<u>Type of Proceeding</u>
Pineview Water Company	W-01676A-99-0261	WIFA Financing
I.M. Water Company, Inc.	W-02191A-99-0415	Financing
Marana Water Service, Inc.	W-01493A-99-0398	WIFA Financing
Tonto Hills Utility Company	W-02483A-99-0558	WIFA Financing
New Life Trust, Inc. dba Dateland Utilities	W-03537A-99-0530	Financing
GTE California, Inc.	T-01954B-99-0511	Sale of Assets
Citizens Utilities Rural Company, Inc.	T-01846B-99-0511	Sale of Assets
MCO Properties, Inc.	W-02113A-00-0233	Reorganization
American States Water Company	W-02113A-00-0233	Reorganization
Arizona-American Water Company	W-01303A-00-0327	Financing
Arizona Electric Power Cooperative	E-01773A-00-0227	Financing
360networks (USA) Inc.	T-03777A-00-0575	Financing
Beardsley Water Company, Inc.	W-02074A-00-0482	WIFA Financing
Mirabell Water Company	W-02368A-00-0461	WIFA Financing
Rio Verde Utilities, Inc.	WS-02156A-00-0321 et al	Rate Increase/ Financing
Arizona Water Company	W-01445A-00-0749	Financing
Loma Linda Estates, Inc.	W-02211A-00-0975	Rate Increase
Arizona Water Company	W-01445A-00-0962	Rate Increase/ACRM
Mountain Pass Utility Company	SW-03841A-01-0166	Financing
Picacho Sewer Company	SW-03709A-01-0165	Financing
Picacho Water Company	W-03528A-01-0169	Financing
Ridgeview Utility Company	W-03861A-01-0167	Financing
Green Valley Water Company	W-02025A-01-0559	Rate Increase
Bella Vista Water Company	W-02465A-01-0776	Rate Increase
Arizona Water Company	W-01445A-02-0619	Rate Increase/ACRM

RESUME OF RATE CASE AND REGULATORY PARTICIPATION (Cont.)

<u>Utility Company</u>	<u>Docket No.</u>	<u>Type of Proceeding</u>
Arizona-American Water Company	W-01303A-02-0867 et al.	Rate Increase
Arizona Public Service Company	E-01345A-03-0437	Rate Increase
Rio Rico Utilities, Inc.	WS-02676A-03-0434	Rate Increase
Qwest Corporation	T-01051B-03-0454	Renewed Price Cap
Chaparral City Water Company	W-02113A-04-0616	Rate Increase
Arizona Water Company	W-01445A-04-0650	Rate Increase/ACRM
Tucson Electric Power	E-01933A-04-0408	Rate Review
Southwest Gas Corporation	G-01551A-04-0876	Rate Increase
Arizona-American Water Company	W-01303A-05-0405	Rate Increase/ACRM
Black Mountain Sewer Corporation	SW-02361A-05-0657	Rate Increase
Far West Water & Sewer Company	WS-03478A-05-0801	Rate Increase
Gold Canyon Sewer Company	SW-02519A-06-0015	Rate Increase
Arizona Public Service Company	E-01345A-05-0816	Rate Increase
Arizona-American Water Company	W-01303A-06-0014	Rate Increase
Arizona-American Water Company	W-01303A-05-0718	Transaction Approval
UNS Gas, Inc.	G-04204A-06-0463	Rate Increase
Arizona-American Water Company	WS-01303A-06-0403	Rate Increase
Arizona-American Water Company	WS-01303A-06-0491	Rate Increase
UNS Electric, Inc.	E-04204A-06-0783	Rate Increase
Arizona-American Water Company	W-01303A-07-0209	Rate Increase
Tucson Electric Power	E-01933A-07-0402	Rate Increase
Southwest Gas Corporation	G-01551A-07-0504	Rate Increase